Remarks

Claims 1-22 are pending in the application.

Claims 12-22 are withdrawn from consideration.

Claims 1 and 2 are rejected.

Claims 3-11 are objected to

Claims 1, 3 and 10 are amended herein

Claim 2 is cancelled

I.   Claim Objections

Claim 10 was objected to because of an apparent informality. The Applicants thank the Examiner for bring this problem to their attention, and they have amended the claim in the manner suggested by the Office Action. Withdrawal of the objection is accordingly respectfully requested.

II.   35 USC §102/103 Claim Rejections

Claim 1 was rejected under 35 USC §102(b) as being anticipated by Heo *et al.* (US Published Patent Application No. 2003/0035367). Claim 2 was rejected under 35 USC §103(a) as being unpatentable over Heo, in view of Chheda (US Published Patent Application No. 2003/0231586). Dependent claims 3-11 were indicated as being allowable if rewritten in independent form including all limitations of the base claim and any intervening claims. Applicants respectfully traverse these rejections and request reconsideration thereof based on amendments made herein and arguments presented below.

Allowable dependent claim 3 has been rewritten in independent form, including the limitations of parent independent claim 1 and intervening dependent claim 2. Dependent clam 2 has been cancelled. Claims 4-11 all depend, either directly or indirectly from rewritten independent claim 3. Accordingly, claims 3-11 should now be allowable.

In addition, the Applicants have amended independent claim 1 to add new limitations that are believed to clearly distinguish that claim from the teaching of Heo, as well as from a combination of Heo and Chheda. It is noted in particular that the system of Heo is directed to the use of Quasi Orthogonal Function code sets for establishing an
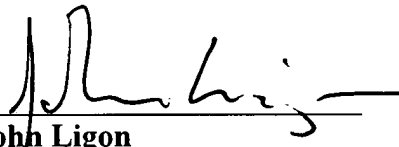
alternative transmission rate, while the method of the invention here operates solely with orthogonal code sets for coding the data to be transmitted. Limitations of Quasi Orthogonal Function code sets relative to true orthogonal codes, in respect to throughput and freedom from error, are well known. Independent claim 1 has been amended to emphasize this distinction over the teaching of Heo. It should also be apparent that nothing in the teaching of Chheda remedies this defect in the Heo disclosure. Withdrawal o f the rejection of independent claim 1 is accordingly respectfully requested.

III   Conclusion

In view of the foregoing, allowance of the amended claims and passage to issue of the subject application is respectfully requested. If the Examiner should feel that the application is not yet in a condition for allowance and that a telephone interview would be useful, he is invited to contact applicants' undersigned attorney at **908-582-5294**.

Respectfully submitted,

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By _____

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Date: August 29, 2008

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